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REMARKS

This is in response to the non-final Office Action mailed December 14, 2006. The Examiner notes that claims 1-22 are pending and rejected. By this response, Applicants have.

In view of the following discussion, Applicant submits that none of the claims now pending in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §103. Thus, Applicant believes that all of these claims are now in allowable form.

It is to be understood that Applicant does not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

REJECTIONS

35 U.S.C. §103

Claim 22

The Examiner has rejected claim 22 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,477,262 to Banker et al. (hereinafter "Banker") in view of U.S. Patent 4,706,121 to Young (hereinafter "Young"). Applicant respectfully traverses the rejection.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The Banker and Young references, alone or in combination, fail to teach or suggest Applicant's invention as a whole.

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Independent claim 22 recites features of Applicant's invention that Applicant considers to be inventive. In particular, independent claim 22 recites

22. A television delivery system for generating an interactive electronic program guide for display on a television connected to the set top terminal, the system comprising:
an operations center comprising:
a means for packaging a plurality of television programs; and
a means for generating program control information including data associated with the packaging of the television programs;
a means for delivering the packaged television programs and the program control information from the operations center to a subscriber;
a set top terminal, located at the subscriber's location, that receives the television programs from the operations center, the terminal comprising:
a microprocessor for executing program instructions;
a graphic memory;
a graphic generator to generate graphics from the graphic memory;
and
a subscriber interface for choosing an option from displayed graphics and for effecting the memory location from which graphical information is generated by the graphics generator;
wherein the terminal generates an electronic program guide comprising:
a plurality of interactive menus, each corresponding to a level of interactivity and having one or more interactive menu items for selection; and
a main menu having one or more main menu items for selection, which main menu items correspond to the interactive menus, wherein the menus are navigated using a user input, and wherein the main menu items and the interactive menu items are responsive to selection signals received from the user input; and
a cursor for navigation of the menus, wherein the cursor movement corresponds to the user input and assists in the selection of one or more main menu items wherein the menus are linked in a tree sequence, and the subscriber interface comprising the option for bypassing at least one menu of the series of menus,
wherein bypassing comprises skipping a menu level of the tree sequence. (emphasis added).

Specifically, Banker fails to teach or suggest at least the feature of "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence," as recited in independent claim 22. The Examiner concedes this in the Office Action.

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(See Office Action, p. 4, ll. 9-11.) However, the Examiner alleges that Young bridges the substantial gap left by Banker.

Young fails to bridge the substantial gap between Banker and Applicant's invention because Young also fails to teach or suggest "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence". Young only teaches a TV schedule system and process. Young teaches providing one of three parallel options to a user, i.e. Master Guide (MG), Program Guide (PG), or conventional channel selection. (See Young, col. 9, ll. 48-55; FIG. 7.) Notably, nowhere in Young, does it teach or suggest "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence".

The Examiner alleges the limitation of "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence" is taught by Young, generally citing columns 20, line 13 – column 12, line 30. However, the portions of Young cited by the Examiner fail to support the Examiner's assertion. For example, with reference to PG mode, Young teaches that a P key must be pressed to enter PG mode. (See Young, col. 12, ll. 10-11.) In PG mode, an additional 5 sub-modes will appear. (See *Id.* at ll. 31-44.) However, Young does not teach or suggest an option for skipping the PG mode main screen and going directly to one of the 5 sub-modes.

Moreover, in FIGs. 7-13 of Young, all the flow diagrams depict a series of actions branching from 3 parallel options, i.e. MG, PG or TV. (See Young, FIG. 7.) Subsequently, all the flow diagrams representing the MG, PG or TV modes fail to teach or suggest any option where an action may be bypassed. (See Young, FIGs. 8-13.) In contrast, the Applicant's invention teaches "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence"

In addition, the Applicant respectfully submits that Young and Banker cannot be meaningfully combined. Banker teaches a method of providing menus via a headend. (See Banker, col. 18, ll. 63-65; FIG. 1.) Young teaches a method of providing

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scheduling information via FM transmitter. (See Young, col. 6, ll. 18-21.) Young specifically teaches that "this form of transmission does not require the cooperation of the television networks or stations." (See *Id.* at ll. 26-28, emphasis added.) Moreover, providing scheduling information and menus via an FM transmitter requires completely different technology than providing scheduling information and menus via a headend. Consequently, Young teaches directly away from Banker's teaching to provide scheduling menus via a headend. Therefore, Young and Banker cannot be meaningfully combined.

Accordingly, Applicant submits that independent claim 22 is non-obvious and patentable over Banker and Young patentable under 35 U.S.C. §103. Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

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Claims 8-21

The Examiner has rejected claims 8-21 under 35 U.S.C. §103(a) as being unpatentable over Banker in view of U.S. Patent 5,539,871 to Gibson (hereinafter "Gibson") and Young. Applicant respectfully traverses the rejection.

The Banker, Gibson and Young references, alone or in combination, fail to teach or suggest Applicant's invention as a whole.

Independent claim 8 recites features of Applicant's' Invention that Applicant considers to be inventive. In particular, independent claim 8 recites:

8. A television delivery system for generating an interactive electronic program guide for display on a television connected to a set top terminal, the system comprising:
 - an operations center comprising:
 - a means for packaging a plurality of television programs;
 - and
 - a means for generating program control information including data associated with the packaging of the television programs;
 - a means for delivering the packaged television programs and the program control information from the operations center to a subscriber;
 - a set top terminal, located at the subscriber's location, that receives the television programs from the operations center, the terminal comprising:

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a microprocessor for executing program instructions;
a graphic memory;
a graphic generator to generate graphics from the graphic memory;
and
a subscriber interface for choosing an option from displayed graphics and for effecting the memory location from which graphical information is generated by the graphics generator;
wherein the terminal senses one or more interactive features during a selected program, and generates an electronic program guide comprising:
a logo that is displayed on the television; and
an overlay menu that is displayed during the selected program, the overlay menu including the interactive features, wherein the logo indicates to a user that the interactive features are available for the selected program, and wherein the overlay menu is displayed in response to a signal received from a user input and wherein the overlay menu is in a series of menus that are linked in a tree sequence and the subscriber interface comprises the option for bypassing at least one menu of the series of menus,
wherein bypassing comprises skipping a menu level of the tree sequence. (emphasis added).

Specifically, Banker fails to teach or suggest at least the feature of "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence," as recited in independent claim 8. The Examiner concedes this in the Office Action. (See Office Action, p. 7, ll. 2-9.) However, the Examiner alleges that Young bridges the substantial gap left by Banker.

Gibson fails to bridge the substantial gap left by Banker because Gibson fails to teach or suggest "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence." Gibson only teaches a method and system in a data processing system for selectively associating stored data with an animated element within a multimedia presentation in a data processing system.

Young also fails to bridge the substantial gap between Banker, Gibson and Applicant's invention because Young also fails to teach or suggest "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence". Young only teaches a TV schedule system and process. Young teaches providing one of three

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parallel options to a user, i.e. Master Guide (MG), Program Guide (PG), or conventional channel selection. (See Young, col. 9, ll. 48-55; FIG. 7.) Notably, nowhere in Young, does it teach or suggest "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence".

The Examiner alleges the limitation of "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence" is taught by Young, generally citing columns 20, line 13 – column 12, line 30. However, the portions of Young cited by the Examiner fail to support the Examiner's assertion. For example, with reference to PG mode, Young teaches that a P key must be pressed to enter PG mode. (See Young, col. 12, ll. 10-11.) In PG mode, an additional 5 sub-modes will appear. (See *Id.* at ll. 31-44.) However, Young does not teach or suggest an option for skipping the PG mode main screen and going directly to one of the 5 sub-modes.

Moreover, in FIGs. 7-13 of Young, all the flow diagrams depict a series of actions branching from 3 parallel options, i.e. MG, PG or TV. (See Young, FIG. 7.) Subsequently, all the flow diagrams representing the MG, PG or TV modes fail to teach or suggest any option where an action may be bypassed. (See Young, FIGs. 8-13.) In contrast, the Applicant's invention teaches "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence"

In addition, the Applicant respectfully submits that Young and Banker cannot be meaningfully combined. Banker teaches a method of providing menus via a headend. (See Banker, col. 18, ll. 63-65; FIG. 1.) Young teaches a method of providing scheduling information via FM transmitter. (See Young, col. 6, ll. 18-21.) Young specifically teaches that "this form of transmission does not require the cooperation of the television networks or stations." (See *Id.* at ll. 26-28, emphasis added.) Moreover, providing scheduling information and menus via an FM transmitter requires completely different technology than providing scheduling information and menus via a headend. Consequently, Young teaches directly away from Banker's teaching to provide

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scheduling menus via a headend. Therefore, Young and Banker cannot be meaningfully combined.

As such, Applicant's independent claim 8 is patentable under 35 U.S.C. §103(a) over Banker in view of Gibson and Young. Claims 9-21 depend, directly or indirectly from independent claim 8 while adding additional elements. Therefore, claims 9-21 are also non-obvious and patentable over Banker in view of Gibson and Young under §103. As such, Applicant respectfully requests that the Examiner's rejection of claims 8-21 under 35 U.S.C. §103(a) be withdrawn.

Claims 1-7

The Examiner has rejected claims 1-7 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,410,326 to Goldstein (hereinafter "Goldstein") in view of Banker. Applicant notes that the Examiner does not cite Young in the preamble of section 4 rejecting claims 1-7, but applies Young in the substantive arguments. As such, Applicant assumes that Examiner meant to reject claims 1-7 under Goldstein in view of Banker and Young. Under such assumption, Applicant respectfully traverses the rejection.

Independent claim 1 recites features of Applicant's invention that Applicant considers to be inventive. In particular, independent claim 1 recites:

1. A television delivery system for generating an interactive electronic program guide for display on a television connected to a set top terminal, the system comprising:
 - an operations center comprising:
 - a means for packaging a plurality of television programs; and
 - a means for generating program control information including data associated with the packaging of the television programs;
 - a means for delivering the packaged television programs and the program control information from the operations center to a subscriber;
 - a set top terminal, located at the subscriber's location, that receives the television programs from the operations center, the terminal comprising:
 - a microprocessor for executing program instructions;
 - a graphic memory;
 - a graphic generator to generate graphics from the graphic memory;
 - and
 - a subscriber interface for choosing an option from displayed graphics and for effecting the memory location from which graphical

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information is generated by the graphics generator;
wherein the terminal generates an electronic program guide having a series of menus comprising:
a home menu;
a plurality of major menus displayed as menu options on the home menu;
a plurality of sub-menus displayed as menu options on the plurality of major menus; and
a plurality of during programming menus enacted after selection of a program; wherein the series of menus are linked in a tree sequence and the subscriber interface comprises the option for bypassing at least one menu of the series of menus,
wherein bypassing comprises skipping a menu level of the tree sequence. (emphasis added).

The Goldstein, Banker and Young references alone or in combination fail to teach or suggest Applicants' invention as a whole.

The Goldstein reference discloses a universal remote control device which is programmed to operate a variety of consumer products. The device is connected over a bidirectional link to either a cable converter or a telephone interface for receiving programming information. A touch screen display is employed on the programmable remote control device for displaying icons of functions to be selected. By selecting a particular displayed icon, a command can be decoded and sent via an infrared link to one or more appliances. Infrared codes for operating a virtually unlimited number of devices can be supplied to the device over the bidirectional communications link. Further, a provision is provided to permit a telephone connection to be set up between the user's home and a facility advertising products or services over a cable television broadcast. The touch screen display will permit the actual display of these advertisements as messages received from the cable head end system. Orders may be placed from the universal remote control device based on these displayed advertisements.

The Goldstein reference fails to teach or suggest wherein the terminal generates an electronic program guide having a series of menus. Goldstein only teaches display of "video text". (See Goldstein, col. 17, ll. 15-19.) Applicant respectfully submits that the limitation of "electronic program guide" does not include the broader term of "video text". For example, "video text" may simply be a screen with instructions for initializing

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various functions of a VCR or remote control. However, electronic program guide has a very specific meaning in the art that is not so broad as to encompass "video text".

Regardless, Goldstein also fails to teach or suggest at least wherein "the subscriber interface comprises the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence" as recited in independent claim 1.

In addition, Banker fails to teach or suggest at least the feature of "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence," as recited in independent claim 1. The Examiner concedes this multiple times in the Office Action. (See Office Action, p. 4, ll. 9-11, p. 7, ll. 2-9.) However, the Examiner alleges that Young bridges the substantial gap left by Goldstein and Banker.

Young fails to bridge the substantial gap between Goldstein, Banker and Applicant's invention because Young also fails to teach or suggest "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence". Young only teaches a TV schedule system and process. Young teaches providing one of three parallel options to a user, i.e. Master Guide (MG), Program Guide (PG), or conventional channel selection. (See Young, col. 9, ll. 48-55; FIG. 7.) Notably, nowhere in Young, does it teach or suggest "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence".

The Examiner alleges the limitation of "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence" is taught by Young, generally citing columns 20, line 13 – column 12, line 30. However, the portions of Young cited by the Examiner fail to support the Examiner's assertion. For example, with reference to PG mode, Young teaches that a P key must be pressed to enter PG mode. (See Young, col. 12, ll. 10-11.) In PG mode, an additional 5 sub-modes will appear. (See *Id.* at ll. 31-44.) However, Young does not teach or suggest an option for skipping the PG mode main screen and going directly to one of the 5 sub-modes.

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Moreover, in FIGs. 7-13 of Young, all the flow diagrams depict a series of actions branching from 3 parallel options, i.e. MG, PG or TV. (See Young, FIG. 7.) Subsequently, all the flow diagrams representing the MG, PG or TV modes fail to teach or suggest any option where an action may be bypassed. (See Young, FIGs. 8-13.) In contrast, the Applicant's invention teaches "the subscriber interface comprising the option for bypassing at least one menu of the series of menus, wherein bypassing comprises skipping a menu level of the tree sequence"

In addition, the Applicant respectfully submits that Young and Banker cannot be meaningfully combined. Banker teaches a method of providing menus via a headend. (See Banker, col. 18, ll. 63-65; FIG. 1.) Young teaches a method of providing scheduling information via FM transmitter. (See Young, col. 6, ll. 18-21.) Young specifically teaches that "this form of transmission does not require the cooperation of the television networks or stations." (See *Id.* at ll. 26-28, emphasis added.) Moreover, providing scheduling information and menus via an FM transmitter requires completely different technology than providing scheduling information and menus via a headend. Consequently, Young teaches directly away from Banker's teaching to provide scheduling menus via a headend. Therefore, Young and Banker cannot be meaningfully combined.

As such, Applicant submits that independent claim 1 is patentable under 35 U.S.C. §103(a) over Goldstein in view of Banker and Young. Claims 2-7 depend, directly or indirectly from independent claim 1 while adding additional elements. Therefore, claims 2-7 are also non-obvious and patentable over Goldstein in view of Banker and Young under §103 for at least the same reasons that claim 1 is patentable over Goldstein in view of Banker and Young under §103. As such, Applicant respectfully requests that the Examiner's rejection of claims 8-21 under 35 U.S.C. §103(a) be withdrawn.

CONCLUSION

Thus, Applicant submits that none of the claims, presently in the application, are obvious under the respective provisions of 35 U.S.C. § 103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

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If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 3/13/07

Eamon J. Wall
Registration No. 39,414
Attorney for Applicant(s)

PATTERSON & SHERIDAN, LLP
595 Shrewsbury Avenue, Suite 100
Shrewsbury, New Jersey 07702
Telephone: 732-530-9404
Facsimile: 732-530-9808